*Chapter 8*

# INSTITUTIONALIZATION THROUGH THE ALRA

In the mid-1970s, farm workers and farm employers alike resorted to government intervention to resolve the conflict between them. In 1969, due to the steady persistence and measured success of the UFW, farmers began to press for legislation that would protect them against boycotts, which incorporation under the amended version of the 1935 NLRA would have done, and for legislation that would provide broader restraints on unions than those offered by the NLRA. Growers had become convinced that farm labor legislation was practical and inevitable.[1] Chavez, on the other hand, was reluctant to support farm labor legislation. He did not want legal limits on use of the secondary boycott, but he consented to pursue an institutional strategy because his organization had been devastated by the IBT's complicity with growers and because he saw no better strategy open to him.[2] The growers' wishes were embodied in several bills: the U.S.

[1] Chris Bowman, "Brown's Farm-Labor Coup," *California Journal* 6 (June 1975): 190–92.

[2] Sam Kushner, "Chavez and the NLRA: Something Is in the Wind," *The Nation* 220, February 22, 1975, 206; Varden Fuller, "Professor Proposes System of Mediation and Arbitration to End California's Farm Union Representation Conflict," *California Journal* 4 (September 1973): 299–301.

Senate bill authored by George Murphy in 1970,[3] the Cory–Wood–LaCoste California Assembly bill of 1971,[4] and the 1972 California election initiative, Proposition 22.[5]

Proposition 22 was a grower-backed initiative in support of unionization. It would have set up the legal machinery to regulate farm labor–management relations and assure collective bargaining for California farm workers. With Proposition 22, growers admitted the inevitability of agricultural unions and came to support their existence in hopes of controlling the rules governing their activities. By 1972, growers could not afford to identify themselves as a purely partisan group. They had failed to win enough support among legislators to have legislation similar to Proposition 22 passed in the California Assembly (Assembly Bills 964 and 9 in 1971 and 1972, respectively) and were forced to appeal to "the people" of California with their proposal. They organized themselves as the Fair Labor Practices Committee in support of the initiative and claimed the support of some farm workers. They also claimed the support of the California Chamber of Commerce, but were opposed by the California Labor Federation, the AFL-CIO, the Teamsters, and the UFW. The Fair Labor Practices Committee committed "upwards of $600,000" to a media campaign promoting passage of the initiative. The aim of the legislation, they said, was to "achieve a fair and equitable balance between the interests of the general public, the agricultural employee, and the agricultural employer."[6] The media effort was aimed at the state's urban population. The growers thereby acknowledged the need to win friends and approval from communities outside their historic sphere of influence. They bad been economically tied to urban institutions and had cultivated and maintained influence among select urban business associates for decades, but they had not felt the need

[3] The growers' inability to get an acceptable measure through the legislature led them to go directly to the voters in an effort to get from the people what they failed to obtain from the people's representatives.

[4] Varden Fuller, "Professor Proposes System of Mediation and Arbitration to End California's Farm Union Representation Conflict," *California Journal* 4 (September 1973): 299.

[5] "Farm Labor–Management Relations," *California Journal* 3 (August 1972): 231–32.

[6] "Farm Labor-Management Relations," 232.

to explain their business practices or represent them in a particular light to urban audiences before.[7]

The ballot initiative compelled growers to represent their interests as fair and impartial in a general way; that is, in a way that would appeal to outsiders, and it compelled them to define and address very precise and specific issues in concrete terms. The provisions of the initiative were weighted in favor of the growers, but they did outline specific issues dividing the two camps — growers and farm workers — and thus prepared the way for negotiation. It was a great political coup for farm workers to have forced growers to appeal to "the public" for a resolution of the conflict between employers and employees in agriculture. The issues outlined in Proposition 22 were as follows:

(l) Who would participate in elections if Proposition 22 passed and the act became law? Grower-backed Proposition 22 excluded most migratory workers.

(2) What employers would be covered by the Agricultural Labor Relations Board proposed in the act? Employers with fewer than six workers could choose to be covered by the act, but labor had no say in the matter.

(3) What would be the extent of the collective bargaining unit? Collective bargaining would be limited to an individual farm unit unless a different agreement was reached by employer and union. As consequence, labor argued, there would be no industry-wide bargaining.

(4) How would a union communicate with workers? The act would prohibit or discourage union representatives from visiting workers on farms, where many workers live, without an employer's permission.

(5) Could growers remove the threat of a strike at harvest time? The act provided for a sixty-day temporary restraining order which would severely limit strike activity during the critical brief harvest season.

(6) Could growers infringe on the union's ability to picket and boycott? Proposition 22 would permit strikes and picketing at the point of production, but not at the point of sale, thus eliminating the secondary boycott. It also limited consumer boycotts by outlawing the use of generic terms like

[7] Leland L. Bull, Jr., "Application of Christian Principles for the Promotion of the Rights of Migrant Workers and Refugees in the Field of Labor Rights in the U.S.A.," *The Catholic Lawyer* 20, no. 3 (1974): 233–53; Wayne Fuller, "Farm-Labor Relations," *Idaho Law Review* 8 (Fall 1971): 66–76.

"lettuce" and "table grapes" in boycott announcements, requiring identification of particular growers as the target of the boycott. In labor's view this provision would have rendered consumer boycotts practically impossible, since a number of major farm brands are cooperatives, like Sunkist, and comprise a number of growers, only some of whom may be specific targets of a boycott.

(7) How heavily would growers be penalized for arbitrarily dismissing an employee? Proposition 22 did not compel a grower to grant back pay to an employee found to have been fired without just cause. The act would compel the worker to be reinstated, but he would not receive back pay. Proposition 22 was defeated, but these same issues were the subject of debate leading to successful passage of the 1975 Agricultural Labor Relations Act.[8]

From 1969 on, growers were active in pushing for regulation of labor relations in the industry. They wanted to recognize the union on their own terms. Beginning in 1969, the UFW, without the formal concurrence of the national AFL-CIO, opposed all labor relations legislation except the original unamended NLRA. That is, the UFW supported the 1935 NLRA without its 1947 Taft–Hartley amendments which forbid secondary boycotts by official unions.

Actually, the UFW had had mixed feelings about supporting NLRA and NLRA-type legislation before 1969, when labor supporters in California and elsewhere in the nation argued for it on behalf of the new union. For the most part, UFW officials refrained from public opposition to such legislation for fear of alienating their liberal backers and their parent national union, but they clearly saw the relative advantages of activity outside the legal framework of NLRA legislation. They looked upon the organizing activities of the UFW as a political movement. Chavez was a political outsider who was powerful precisely because he could not be fitted into established political processes on someone else's terms. He was intransigent in the face of pressures of all kinds. Chavez knew that the secondary boycott, forbidden to unions covered under the provisions of the Taft–Hartley Act,

[8] California Initiative, Proposition 22 (1972 general election), rejected by California voters, November 1972; California Labor Relations Act of 1975, Cal. Labor Code, para. 1153 (c) (West. Supp. 1976), 1140–1166.3.

was one of his union's most powerful weapons, and he was more than a little reluctant to give it up. He did not want his union to be regulated out from under him — to be pushed, that is, by internal organizational pressures and external legal-liberal pressures to become like many of the older, established unions:

> The danger is that we will become like the building trades. Our situation is similar — being the bargaining agent with many separate companies and contractors. We don't want to model ourselves on industrial unions: that would be bad. We want to get involved in politics, in voter registration, not just contract negotiation. Under the industrial union model, the grower would become the organizer. He would enforce the closed shop system; he would check off the union dues. One guy — the business agent — would become king. Then you get favoritism, corruption. The trouble is that no institution can remain fluid. We have to find some cross between being a movement and being a union. The membership must maintain control, the power must not be centered in a few.[9]

Industrial unions, according to Chavez, focused on winning contracts and then gave up the larger struggle. They hardened and became conservative. His hope was that the UFW would be different. Chavez was forced to compromise only when the organizing momentum was no longer in the UFW's favor.

The 1973 harvest season was a critical time for the UFW union. The Delano Grape Strike begun in 1965 proved to be the first successful attempt to create a farm workers' union in California. The Teamsters Union had for some time represented workers in jobs closely related to field labor — food processing, warehouse, and transportation workers who handled agricultural goods. The Teamsters had made some efforts to organize farm field labor prior to the successful efforts of the UFW, so the potential for a jurisdictional fight between the two unions was present early on. In 1967, however, an agreement was reached between Chavez's AFL-CIO affiliated union and the Teamsters to the effect that Chavez's union would have exclusive rights to organize field workers while the Teamsters would represent

[9] Jacques E. Levy, *Cesar Chavez: Autobiography of La Causa* (New York: W.W. Norton & Co., Inc., 1975).

processing, warehouse, and transportation workers associated with agriculture. After another three years of hard organizing in the Coachella Valley and in and around Delano, Chavez was forced to move his operation to Salinas and confront the Teamsters in a jurisdictional fight for field laborers. In 1970, Chavez was at the peak of his power, having won 182 contracts covering 42,000 lettuce, grape, and soft fruit workers, but his position was seriously threatened.[10]

The outcome of the competition with the Teamsters was devastating to the UFW. By harvest time 1973, the UFW held only 12 contracts covering 6,500 workers, most of whom were wine grape employees.[11] Growers had gone to the Teamsters and negotiated contracts with them directly. In Washington, George Meany initiated negotiations with Frank Fitzsimmons in an effort to bolster the flagging UFW. All this time, growers were pushing hard for pro-management labor legislation. In San Francisco, representatives of the two unions headed by Chavez on the one hand, and by Einar Mohn, head of the Western Conference of Teamsters on the other, began peace talks in hopes of hammering out another jurisdictional agreement. The 1973 harvest, however, saw 4,000 striking farm workers and UFW supporters jailed for defying court orders, two UFW pickets killed, and another Chavez fast. With the organizing momentum collapsing under him, Chavez began to revise his anti–farm labor legislation position.[12]

In the aftermath of violence during the 1973 harvest, Chavez and his union filed a number of civil suits against the Teamsters. If the suits had gone to court, the Teamsters would have had to produce what were widely believed to be damaging private records for court review. At the time, the Teamsters were being scrutinized by investigators looking into the Teamsters' pension fund and the mysterious disappearance of Jimmy Hoffa. The UFW was, in addition, accusing Teamster "goons" of brutality and murder.[13]

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[10] Bruce Keppel, "The Bitter Harvest," *California Journal* 6 (November 1975): 377–79.

[11] Ibid., 379.

[12] "Is Chavez Union on Brink of Defeat?" *California Journal* 4 (September 1973): 297–98.

[13] Edward J. Walsh and Charles Cravpo, "Union Oligarchy and the Grassroots: The Case of the Teamsters' Defeat in Farmworker Organizing," *Sociology and Social Research* 63 (January 1979): 269–93.

Farm workers, the poorest paid work group in the country, were not very valuable to the Teamsters. From the outset, the Teamsters had been more concerned with jobs in packing sheds and processing plants, jobs historically controlled by Teamsters and allocated to them in their original jurisdictional agreement with the UFW. They had entered the fray primarily to protect their own workers who could be hurt by a major harvest-time strike, or so they said. They were considerably less interested in new Teamster recruits. In addition, Teamsters were persuaded that mechanization would dramatically reduce the number of field labor jobs and that this trend would be exaggerated by wage increases due to unionization. This has proved to be true.[14]

Once Meany began talking to Fitzsimmons, a more "useful" form of communication between the UFW and the Teamsters was possible. At the national level, the conflict was seen as one union fighting another — an anti-labor phenomenon. At the local level, the Teamsters had more in common with farm management, particularly the big agribusiness firms, than they did with the UFW, which they saw as a political movement led by an intransigent, disdainful messiah — a civil rights leader, not a labor leader.[15]

When Governor Jerry Brown took office in 1975, there were two major farm labor bills before the legislature. One was authored by Democratic Senator George Zenovich of Fresno and backed by grower and Teamster interests.[16] The other was a UFW bill introduced by Chicano Assemblyman Richard Alatorre.[17] In April 1975 Brown introduced a compromise bill,[18] but Chavez quickly refused to support the governor's proposal in a letter to Zenovich, stating that the UFW would back only Alatorre's bill. All others were "unacceptable, unworkable, and unamendable."[19] Despite the UFW's quick rejection of Brown's compromise bill, however, it was clear that the UFW needed legislation to insure openly competitive elections on farms and in areas where the Teamsters were undermining its organizing efforts. In a long battle of perseverance and attrition, the UFW

14 Ibid.
15 Ibid.
16 California Senate Bill 308.
17 California Assembly Bill 1.
18 California Senate Bill 813.
19 Bowman, "Coup," 190.

might well have beaten the Teamsters in the field, but if Chavez wanted an immediate advantage, legislation held the best promise of giving him that advantage. Legislation enabling the UFW to call for elections and to take action against growers and Teamsters for engaging in unfair labor practices was the best immediate strategy to end Teamster–grower collusion, or so Chavez had grudgingly come to believe.[20]

Realistically, Brown's bill or an amended version of his bill was the only measure that could pass the legislature, since it provided assemblymen with a way to enact legislation without appearing to choose sides. Consequently, the governor took additional steps toward compromise. He instructed Rose Elizabeth Bird, his secretary of agriculture and services, to analyze the issues at stake in the farm labor bills before the legislature. Bird then met with growers and UFW representatives, the Teamsters having declined to participate. Messages were relayed back and forth between Bird, the governor, the legislature, the growers, and UFW representatives. Soon, the governor was directly involved, discussing labor legislation issues with legislators and growers in the privacy of his office.[21]

Brown wanted to persuade the various parties that his compromise bill was different from previous approaches to the problem of enacting farm labor legislation and he wanted to narrow the range of disagreement to specific issues — "leaving rhetoric aside."[22] Actually, Brown was dealing with essentially the same set of issues that had divided growers and farm workers on the problem of farm labor legislation in 1969. Brown had ready access to the UFW through Leroy Chatfield, one of his aides who previously had worked for Chavez, but he needed to draw growers and grower-related interests into the negotiations in a positive way. He managed to do this by creating the impression that a compromise could be reached, that he was willing to go out on a limb for it, and that a political atmosphere of power brokering would surround the negotiations. Brown was able to assure growers that practical, and not ideological, issues would be discussed, that values would be stripped from the process and the mechanics

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[20] Jeff L. Lewin, "Representatives of Their Own Choosing: Practical Consideration in the Selection of Bargaining Representatives for Seasonal Farmworkers," *California Law Review* 64, no. 3 (May 1976): 732.

[21] Bowman, "Coup," 190–91.

[22] Ibid., 190.

of implementing unionization emphasized. The growers knew that Brown had close contacts with the UFW. They assumed that Brown and Chavez were friends and concluded that Brown knew that Chavez would deal. They knew that Brown was taking a risk, but they figured that he would not gamble on a political issue of such magnitude if the odds were against him. A compromise, then, was likely. With negotiations underway, Brown could not afford to he openly partisan. Growers saw Brown as a mediator in a straightforward political struggle. Even if negotiations collapsed, Brown would be compelled to smooth things over. He might then have to go directly to the more conservative grower-related interested in the legislature, thus creating opportunities for bargaining and concessions on other issues. Growers, then, had little to lose. The key to Brown's ability to engage growers, however, was their by-then longstanding support of farm labor legislation and Brown's promise that tough bargaining would replace rhetoric. The silent power-broker style of negotiation would hold sway over public denunciations of the immorality of growers by Chavez and the UFW. Chavez would not be able to "drag religion into it" if negotiations were conducted by the governor's office.[23]

The talks centered around three main issues: (1) the size of the bargaining unit, (2) jurisdictional disputes between unions, in particular, the disposition of existing Teamster contracts, and (3) the use of the secondary boycott. A compromise solution was reached in each instance. The definition of the bargaining unit in the ALRA of 1975 was the same as its definition in the UFW-backed Assembly Bill (AB 1) authored by Alatorre. The employer unit, rather than the craft unit or the farm unit was to be the bargaining unit in a given contract negotiation unless the employees worked in non-contiguous areas, in which case the Agricultural Labor Relations Board was to pick the bargaining unit (from among the employer, craft, and farm units).[24]

One of the sticking points in the negotiations concerned jurisdictional rivalries between the UFW and the Teamsters. The Teamsters feared that the proposed labor legislation would automatically invalidate all of their existing contracts. When Brown's proposed bill was first unveiled,

[23] Interview with Johnson, August, 1978.

[24] Cal. Labor Code para. 1156.2 (West Supp. 1976).

the Teamsters held 400 contracts with growers covering more than 50,000 workers. Bird assured the Teamsters that their contracts would remain in effect until new representation elections were held under rules established by the proposed act. If the UFW, for instance, obtained a show of interest among workers on a farm, and if a representation election was held according to guidelines established by the act and the UFW won, then and only then, would a Teamsters' contract be invalidated and replaced by a contract negotiated between the grower and the UFW. The building trades within the AFL-CIO were also concerned about the potential effects of the proposed legislation. They were afraid that the ALRB would allow farm workers rather than building tradesmen to be hired for construction jobs on farms. On May 19, 1975, Brown negotiated a compromise giving the Teamsters and the building trades union the protective language they desired and promising Chavez that the bill would be enacted prior to the 1975 fall harvest season.[25]

Perhaps the major compromise reached in the negotiations concerned use of the secondary boycott by unions. The parties eventually agreed to prohibit secondary boycotts before a bargaining unit was certified, but to allow secondary boycotts by a certified union. That is, the secondary boycott could be used as a collective bargaining tool (by a certified union), but it could not be used to force a grower to recognize a particular union.[26]

The UFW publicly opposed Brown's original compromise and continued to oppose it even in amended form until the final night of negotiation. Jerry Cohen, the UFW's principal attorney, called the bill "deceptive" and three Chicano legislators, Art Torres, Richard Alatorre, and Joseph Montoya, accused Brown of adopting a "racist" farm-labor policy. Behind the scenes, however, the UFW was pressing for the most favorable law possible, having embraced the need for legislation that would make it possible for farm workers to challenge Teamsters' contracts. The Western Conference of Teamsters, on the other hand, praised Brown's original proposal, but withheld endorsement of it, and later opposed the measure when they realized that the legislation might invalidate their contracts with growers.[27]

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25 Bowman, "Coup," 191–92.

26 "California Compromise," *Time*, May 19, 1975, 18.

27 Bowman, "Coup," 191.

Brown made changes in the bill during the negotiations in an effort to please both Chavez and the growers.

The growers accepted the bill for several reasons: Chavez's important strategic weapon, the secondary boycott, was limited by the legislation; the bill provided for a "no union" option in representation elections; and the alternative to legislation seemed to be more years of unregulated labor strife in the agricultural industry in California. If the act passed, there would be legal pressure for Chavez to conform to standard labor union practice. The compromise was a victory for Chavez and the UFW, assuming the UFW could win big in the representation elections. The UFW could call strikes at harvest time, it could get secret elections to challenge Teamster contracts, and it could still conduct limited secondary boycotts.

The basic provisions of the Brown compromise bill were as follows:

(1) Workers' representatives were to be selected by secret ballot elections with a "no-union" option entered on the ballot.

(2) Elections were to be held within seven days after the filing of an election petition and, if possible, within 48 hours after filing, if the majority of workers were on strike.

(3) Employees eligible to vote were to include all employees on the payroll immediately prior to the filing of an election petition, all employees discharged after the petition filing, and all persons displaced by strike activities immediately before and after filing.

(4) A union could appeal to consumers not to patronize a neutral employer where no representation election had been held in the last twelve months or where no union had been certified in twelve months and a union could lobby consumers not to buy a specific product at a neutral employer's place of business; but a union could not force employees of a neutral employer to strike or to cease work to pressure an employer to stop doing business with a primary employer.

(5) Picketing to get an employer to recognize a union was allowed for up to thirty days before filing an election petition only when no union was certified or where no election had been held within the last twelve months.

(6) The bargaining unit was to include the employer unit unless employees worked in non-contiguous areas, in which case the board picked the bargaining unit.

(7) The legislation permitted contracts in force when the act took effect to be challenged through election.

(8) Twenty-four-hour notice had to be given before court orders could be sought to ban pickets.

(9) Parties hurt by a board order could obtain a review in the Court of Appeal.

(10) The Agricultural Labor Relations Board was to consist of five full-time members. Board members were not required to be representative of any particular set of interests. That is, the act did not specify board member qualifications.[28]

The act went into effect on August 28, 1975. Newly appointed board members had less than a week to prepare to conduct the first of the secret ballot representation elections scheduled for September 2nd. By the end of the first month, the agency had had to conduct 200 elections and at least as many unfair labor practice complaints had been filed. By contrast, the NLRB in its first year of operation handled something like 35 elections. Ninety-one employees were hired during the first month of operation. Three were required to conduct each election. One office alone ran 17 elections in a single day. The demand for services was extraordinarily high, and the amount of funds and staff hours necessary to do the work was grossly underestimated. In addition, agency personnel had been hired quickly and in some cases the screening process was not exacting enough. In Salinas, a regional director of the ALRB was dismissed after complaints were lodged against him. The most time-consuming aspect of the work being done by the agency, however, was investigating complaints, holding hearings on contested ballots, and issuing findings.[29]

Brown and the board were engulfed in a flood of criticism of the agency's work. The governor responded with an excuse and a bit of philosophy. The agency, Brown, said, had had to deal with "unprecedented elections under unprecedented conditions."[30] Controversy surrounding the agency

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[28] Lewin, "Representatives," 732–92; Herman Levy, "The Agricultural Labor Relations Act of 1975," *Santa Clara Lawyer* 15 (1975), 783; Lucinda Carol Pocan, Comment, "California's Attempt to End Farmworker Voicelessness: A survey of the Agricultural Labor Relations Act of 1975," *Pacific Law Journal* 7 (January 1976): 197.

[29] Harrington interview.

[30] Bowman, "Coup," 90–92.

raised "the question of the limits of government in terms of expectation." What's more, a piece of legislation could hardly be expected to "resolve the disputes of decades."[31]

The UFW was one of the agency's chief critics. Chavez called Walter Kintz, the board's general counsel, "evil," and on September 15th called for his dismissal.[32] Charges and countercharges were daily reported in the papers, tensions between board members surfaced, and so the governor sent Lew Warner, an aide, to investigate relations between Kintz and the board. Meanwhile, the (pro-grower) Board of Agriculture called on the legislature to investigate implementation of the new act. The Teamsters picketed the ALRB's Fresno office to protest agency actions, and the UFW picketed the board's headquarters in Sacramento to protest agency inaction.[33]

By October Kintz had hired ten additional investigators and attorneys to work on complaints and began brushing up the agency's tarnished image with brave statements to the press.[34] The board's $1.3 million initial grant, meanwhile, was fast disappearing under the pressure of very heavy expenditures.

Conflicts and tensions were exacerbated by the early elections returns. Of the 218 elections held as of October 14, 1975, 103 had been won by the UFW and 80 by the Teamsters. In 10 elections, a "no union" vote came out on top. The UFW tallied 13,841 votes, the Teamsters, 7,903. "No union" got 4,406 votes. The UFW won the right to represent 11,695 workers, but the Teamsters were a close second with 9,556. One thousand four hundred and ten workers chose to go unrepresented. Tens of thousands of votes were challenged by both the UFW or the Teamsters, and the beleaguered ALRB was charged with investigating these cases of alleged vote fraud and voter ineligibility.[35]

The agency ran out of funds and officially closed its doors on February 6, 1976. A massive backlog of work had piled up and many agency

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31 Ibid.

32 Ibid.

33 Ibid.

34 Ibid.

35 "Rendering to Cesar: Election Results," *Time*, September 22, 1975, 32; Veral M. Seagraves, "Cesar Chavez and the Farm Workers: Victories, Yes, But the Struggle Goes On," *Christian Century*, December 17, 1975, 1160.

employees continued to work without being paid. These "zealous" staffers prompted cries of outrage from some groups who pointed to this kind of die-hard enthusiasm as proof that there was something wrong with the agency, that the agency had hired the wrong kind of people for the nonpartisan administrative work required. People who would work without pay in an atmosphere of virtually nonstop criticism and bitter political controversy were clearly fanatics. Long after the 6th, as agency personnel continued to staff the office, a collective and companionate style of work relationship emerged.

Employees pooled their checks and helped each other out in what some of them viewed as an atmosphere of "siege." These staffers had come to define their work as a cause. A final order came down, however, demanding a stop to agency activity. Agency property was "reclaimed." Door locks were changed and agency files were seized. As a consequence, a significant number of 1975 election returns were not officially processed, and many 1975 unfair labor practices charges went unresolved.[36]

The feeling at the time the agency ran out of money was that the legislature would not let the agency die — that Brown would fight for more funds to allow the agency to continue its work. The agency had already borrowed $1.75 million from the state treasury and was unable to borrow more. Various compromises were talked about but nothing more happened.

Growers seized the opportunity to push for changes in the basic law as a condition for approving additional funds, but Brown and key legislative leaders refused to make changes.[37]

In the meantime, the UFW began circulating initiative petitions to reenact the law with several changes and to direct the legislature to fund the ALRB. Within twenty-nine days the UFW had secured the 750,000 signatures necessary to qualify the proposition for the November ballot. The speed with which signatures were collected conveyed the message to the legislature that something should be done, that there were political risks

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[36] "California Farm Board Throws Out Results of Three Ranch Elections," *Los Angeles Times*, January 29, 1976, I-25.

[37] William Endicott, "Grower-Backed Farm Labor Bill Gains," *Los Angeles Times*, March 4, 1976, I-26; Bill Stall, "Brown Claims Gains for Farm Board Revival." *Los Angeles Times*, March 6, 1976, 8; "Grower-Backed Measure on Farm Labor Act Killed," *Los Angeles Times*, March 10, 1976, I-3.

in taking a no-ALRB approach. The legislature compromised on the funding by requiring legislative oversight of agency activities and did so before Proposition 14 was put to the test in the November election.[38]

In the election, the proposition failed by a 2-to-1 margin statewide. In fact, the initiative carried only two counties, Alameda and San Francisco. Afterward, there was a significant backlash over board actions. The election returns had provided new grounds for criticizing the ALRB. Some groups claimed that the board was trying to administratively impose the kinds of motions and procedures that were at least partly contained in Proposition 14 and which had been defeated in the election. They argued that the people rejected things that the board continued to do.[39]

The ALRB was out of business from February 6, 1976 to July 1, 1976 when additional funds were made available for the fiscal year 1976–77, contingent upon the establishment of a legislative committee to oversee the functions of the ALRB. Once established, the legislative committee called public meetings in various places throughout the state and invited all interested parties to speak out about the agency and the legislation. As one ALRB attorney put it, public forums were created for people "to tell their horror stories about the agency." The committee was "representative" in that committee members with opposite points of view were included. Assemblyman Alatorre, a UFW backer, and Howard Berman, who, along with Senator John Dunlap, had managed the original ALRA through the legislature, were on the committee as was Senator John Stull, one of the strong political forces in opposition to the agency. In 1977 Stull tried to amend the ALRA to forbid use of "the access rule." The access rule is not, in fact, part of the legislation, but rather an administrative ruling permitting a union access to workers on private farm property during certain times in the day. The agency was refunded for fiscal year 1976–77, but it was not a permanent part of the state structure with yearly budget guarantees.

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38 Tom Goff, "New Effort to Fund Farm Board Slated," *Los Angeles Times*, March 16, 1976, III-8; Larry Stammer, "Panel Votes Emergency Funds for Farm Board," *Los Angeles Times*, March 17, 1976, I-3.

39 Harry Bernstein, "New Charges Hit Farm Board," *Los Angeles Times*, February 17, 1977, II-2.

Its continued existence in the form in which it had been created was still up in the air.[40]

The ALRA of 1975 established a system giving farm workers the right to select unions to represent them in bargaining with employers. In the language of the legislation, the agency was directed to promote this right. The agency, of course, was not to indicate a preference for one union over another. There is little doubt, however, that a large majority of the individual members of the agency were sympathetic to the UFW. One central office staff attorney, when asked who the ALRB's allies were, responded: "There used to be a reaction which would say that it was probably the union, the UFW. I think institutionally that's still correct."[41] It was not easy for the liberal, socially conscious, institutionally-based ALRB attorneys to look upon the UFW as an adversary.

The UFW, on the other hand, could easily count the ALRB among its enemies when agency actions ran counter to its interests. The 1977 elections in the Coachella Valley are a good example of the context in which the union could view the ALRB as an enemy. The union did poorly — certainly what they considered to be poorly — in the Coachella Valley elections. The UFW lost some elections, and others were stalemated by large numbers of challenged ballots. In some cases, elections were not conducted because the union failed to get a 50 percent showing. Before the agency could conduct an election, it must have evidence that at least 50 percent of the currently employed employees wanted to have an election. Evidence consists of signatures on authorization cards of election petitions. The union felt the ALRB was largely to blame. Union people blamed the ALRB on a personal basis. UFW organizers went to the ALRB regional office and literally screamed their accusations at staff members. The union charged Coachella Valley growers with large-scale manipulation of the work force just before the elections were to take place. Large numbers of workers, it claimed, were being laid off so that they would not be able to vote. The UFW further charged the ALRB with sanctioning grower manipulation by not acting affirmatively to stop the firings, by not aggressively investigating charges brought to its attention by UFW representatives, and by failing to

[40] Harry Bernstein, "Lawmaker Supports Farm Board Aide," *Los Angeles Times*, February 18, 1977, II-3.

[41] Harrington interview.

provide assurances to farm workers that they could engage in organizing activities without fear of losing their jobs.[42]

The Coachella Valley became the testing ground for an agency regulation passed in the fall of 1977. The practice had been for the union to receive a list of the names and addresses of current employees after an election petition had been filed. Under the new regulation, a pre-petition list was to be drawn up by the growers; the UFW was to have access to a list of the names and addresses of current farm employees prior to the filing of an election petition. The union needed a list to organize an effective petition campaign, i.e., to get their 50 percent showing. The growers opposed the regulation and turned to the courts to fight it.[43]

In the rural Superior Courts, growers were largely successful in gaining injunctions against the new ALRB regulation and in resisting a variety of attempts to enforce it. They tied the UFW's organizing efforts up for weeks.[44] Since organizing is really only effective during the harvest season of 8–12 weeks, the growers managed to delay and thus defeat the UFW's organizing efforts for another year.

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[42] Theo J. Majka, "Regulating Farmworkers: The State and the Agricultural Labor Supply in California," *Contemporary Crises*, April 1978, 141–55.

[43] Ibid.

[44] Harrington interview.